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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7191 OF 2005

Amphenol Interconnect (India)
Pvt. Ltd. ... Petitioners

V/s.

Shri V.P. Bose ... Respondent

Mr.C.U. Singh with Ms.G. Prabhu u/b Haresh Mehta & co. for Petitioners
Mr.R.R. Salvi for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 27, 2005**

P.C.:

. The petition challenges the orders of the Labour Court and the Industrial Court in revision. The Labour Court has allowed the complaint filed by the Respondent-workman and has declared that the Petitioners have engaged in unfair labour practice under Item 1 of Schedule IV of the MRTU & PULP Act from 24.3.2003. The Labour Court directed the Petitioners to reinstate the workman and disallowed the prayer for backwages. Revisions were filed by the parties. The Industrial Court dismissed the revision filed by the Petitioner while allowing the revision filed by the respondent-party. The Petitioner was directed to pay 25% of the backwages from the date of termination of services till reinstatement.

2. According to Mr.Singh, appearing for the Petitioners, the Labour Court has completely misdirected itself while concluding that the Petitioner has committed an unfair labour practice. Two chargesheets were issued to the workman. The first chargesheet was issued on 30.10.2001 which contained an allegation against the Respondent that he had misused the telephone in the office by using it to make personal calls. An enquiry was held in respect of that chargesheet and a report was submitted by the Enquiry Officer. On 19.8.2001 another chargesheet was issued to the respondent-workman alleging that he had made false complaints to the police in respect of several of the Petitioners' senior officers. No enquiry was held in respect of this chargesheet. The order of dismissal which was passed on 24.3.2003 set out the fact that the enquiry officer had found the Respondent guilty of misusing the telephone. The order also mentioned in detail the fact that the Respondent had filed complaints with the police against the senior officers of the company levelling serious allegations which were false. Both these factors taken together led to the dismissal order being issued. This can be easily deduced from a perusal of the order.

3. Aggrieved by the dismissal order, the Petitioners had preferred a complaint before the Labour Court under Items 1(1), (b), (d), (f) and (g) of Schedule IV of the MRTU & PULP Act. The Petitioners led evidence in respect of the chargesheet regarding the false police complaints. The Labour Court held that the enquiry instituted by the Petitioners in respect of the chargesheet dated 13.10.2001 for misuse of the office telephone was held in accordance with the principles of natural justice. However, it came to the conclusion that the findings of the Enquiry Officer were perverse. The Labour Court did not permit the Petitioners to lead evidence thereafter. The charges levelled by the respondent against the officers of the management were found to be false and extremely serious. The Labour Court observed that the police did not register any complaint against the officers of the company. Strangely, the Labour Court held that the order dismissed was shockingly disproportionate by observing that it had been issued only for the misuse of the telephone. The Labour Court has then confused the past service record with the allegation contained in the chargesheet dated 19.8.2001. The Labour Court has misinterpreted the dismissal order which was issued for

lodging false complaints with the police and for the misuse of the telephone. The Labour Court after observing that the false allegations levelled against the officers of the Petitioners was a serious misconduct did not approve of the dismissal order only since it was under the mistaken belief that the Respondent was not so charged.

4. In my view, therefore, the Labour court after having held that the findings of the enquiry officer in respect of the chargesheet dated 13.10.2001 were perverse ought to have granted permission to the Petitioner to lead evidence to prove the charge against the Respondent. The Labour Court ought to have considered the fact that the dismissal order was passed on the basis of not only the chargesheet dated 13.10.2001 but also the chargesheet dated 19.8.2002.

5. The Industrial Court has committed the same error by confirming the order of the Labour Court. The complaint is therefore, remanded to the Labour Court. The Labour Court shall permit the Petitioners to lead evidence to prove the charge against the respondent. The Labour Court to hear and decide the complaint by 31.7.2006.

6. Writ Petition is disposed off accordingly.